

**In re: EDMUND TELLO.
P.Q. Docket No. 01-0006.
Decision Without Hearing By Reason Of Default.
Filed March 7, 2002.**

PQ – Default – Failure to answer.

Susan Golabek, for Complainant.
Respondent, Pro se.
Decision and Order issued by Jill S. Clifton, Administrative Law Judge.

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the importation of fruits and vegetables into the United States

(7 C.F.R. §§ 319.56 *et seq.*), hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 *et seq.* and 380.1 *et seq.*

This proceeding was instituted by a complaint filed on February 5, 2001, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. This complaint alleged that on or about February 3, 1999, the respondent imported twenty (20) avocados and twenty (20) tree tomatoes from Guatemala into the United States at Los Angeles, California, in violation of 7 C.F.R. § 319.56, because the importation of avocados and tree tomatoes from Guatemala into the United States is prohibited.

The respondent failed to file an answer to the complaint within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. The failure to file an answer also constitutes a waiver of hearing. 7 C.F.R. § 1.139. Accordingly, the material allegations in the complaint are adopted and set forth herein as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.139.

Findings of Fact

1. Edmund Tello, respondent herein, is an individual whose mailing address is 7681 Baylor Dr., #12, Westminster, CA 92683.

2. On or about February 3, 1999, the respondent imported twenty (20) avocados and twenty (20) tree tomatoes from Guatemala into the United States at Los Angeles, California, in violation of 7 C.F.R. § 319.56, because the importation of avocados and tree tomatoes from Guatemala into the United States is prohibited.

Conclusion

By reason of the facts contained in the Findings of Fact above, the respondent has violated 7 C.F.R. § 319.56. Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of five hundred dollars (\$ 500.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 55403
Minneapolis, Minnesota 55403.

Respondents shall indicate that payment is in reference to P.Q. Docket No. 01-06.

This Order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.145.

[This Decision and Order became final May 20, 2002.-Editor]
